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8 **UNITED STATES DISTRICT COURT**
 9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 WILLIAM SWIMAN, individually and on) Case No. 08cv806-WQH (NLS)
 11 behalf of all other persons similarly situated)
 11 and on behalf of the general public,) **PLAINTIFF'S NOTICE OF MOTION**
 12 Plaintiff,) **AND MOTION TO REMAND**
 13 vs.)) [Oral Argument Not Required]
 14 MORGAN SERVICES, INC., an Illinois)) Date: July 21, 2008
 15 corporation; and DOES 1 through 100,)) Time: 11:00 a.m.
 15 inclusive,)) Place: Courtroom 4 (4th
 16 Defendants.)) Floor)
 16)) Judicial Officer: Hon. William Hayes
 17))
 17 **TO DEFENDANT AND ITS ATTORNEYS OF RECORD:**

18 PLEASE TAKE NOTICE that on July 21, 2008 at 11:00 a.m., or as soon thereafter,
 19 in Courtroom 4 of the United State District Court, Southern District of California, located
 20 at 940 Front Street, San Diego, California 92101, Plaintiff William Swiman ("Plaintiff") will
 21 move this Court for an order remanding this case back to the Superior Court of California,
 22 County of San Diego, pursuant to 28 U.S.C. § 1447.

23 This motion is brought on the grounds that Plaintiff's complaint alleges claims against
 24 the named defendants arising solely under California law and there is no diversity of
 25 citizenship as between the named parties or federal question. Therefore, there is no subject
 26 matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and there is no diversity
 27 jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Since this federal Court does not

1 have subject matter jurisdiction or diversity jurisdiction over this matter, this Court is
2 required to remand the case to state court pursuant to 28 U.S.C. § 1447(c).

3 This motion is based on this notice of motion and motion, and the accompanying
4 memorandum of points and authorities and declaration of William Swiman, all of which have
5 been served and filed herewith, as well as the defendant Morgan Services Inc.'s notice of
6 removal of action, the pleadings and papers on file herein, and upon such other matters as
7 may be presented to the Court at the time of the hearing.

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9 Dated: May 27, 2008

KEEGAN & BAKER, LLP

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s/Brent Jex

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Jason E. Baker, Esq.
Brent Jex, Esq.

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Attorneys for Representative
Plaintiff WILLIAM SWIMAN

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